REMARKS

Claims 1, 3-5, 9-11, 17, 18, 24-26, and 55-56 are currently pending in the present application, with Claims 45-55 being canceled, Claims 1, 3, 24, and 25 being amended, and new Claim 56 being added. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner issued a restriction requirement between Group I (Claims 1, 3-6, 9-11, 17, 18, and 24-26) and Group II (Claims 45-55) as being directed to independent or distinct inventions. Applicant hereby elect without traverse and without prejudice Group I of the claims for further prosecution. Claims 45-55 have therefore been canceled from the present application.

The Examiner rejected Claim 1 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant traverses this rejection but has nevertheless amended Claim 1 to further clarify the claimed subject matter. Applicant notes that the term "sponsor message" as recited is not vague or indefinite, and have further defined the term to mean an advertisement by a sponsor, as the term was construed by the Examiner on page 5 of the Detailed Action. Likewise, the remaining issues identified by the Examiner have also been addressed via the claim amendments.

The Examiner rejected Claims 1, 3, 5, 6, 10, 11, 17, 18, and 24-26 under 35 U.S.C. 103(a) as being unpatentable by Kaplan (U.S. Patent No. 5,963,916) in view of David et al. (U.S. Patent No. 6,269,361). This rejection is respectfully traversed with respect to the amended claims.

As previously communicated, the present invention as claimed in the claims is directed to a method for providing incentives to consumers who wish to otherwise purchase or acquire a media product, which may be audio, video, and/or graphic/text data (*e.g.*, MP3 song, a movie, pay-per-view event, a DVD disc, a news article, etc.), or a service, such as wireless Internet access while at a remote location from home (*e.g.*, at the airport, a café, etc.). In accordance with a preferred embodiment, a consumer may receive an incentive associated with the purchase or acquisition of the product or service on the precondition that the consumer first receives a sponsor message, which according to the claimed invention is pre-associated with the media products or services (*e.g.*, an advertisement message for auto insurance may be associated with a news article about new cars being introduced). Applicant has amended Claim 1 to further clarify that a sponsor message must include an advertisement by the sponsor advertising a product or service other than the media product which the consumer seeks to acquire.

As also previously communicated, in accordance with the preferred embodiments, in addition to pre-associating the sponsor messages with the media product or service, with respect to Claim 1 the sponsor message is selected for presentation to the consumer only if the number of times by which a sponsor of the message has been contracted (*i.e.*, paid for) to be displayed has not been exceeded.

Again, the present invention offers the advantage of allowing a consumer to acquire a product or a service by having a sponsor effectively helping to carry some or all of the cost associated with the acquisition of the product or service. This also benefits the sponsor of the sponsor message since, by associating the sponsor messages with the products and services, the sponsor messages may be selectively distributed to consumers on a more intelligent basis, as

opposed to unintelligent mass distribution of advertisement. Furthermore, by limiting the selection of sponsor messages to the ones that have yet to "expire" based on the number of times previously presented, the present invention helps ensure that only the paid for sponsor messages are displayed.

Neither Kaplan or Davis contains any disclosure or suggestion of offering to a consumer an incentive related to the purchase of a media product or a service *on the precondition* that the consumer first agrees to receive or interact with an advertisement, and that, upon receiving an acceptance of such an offer, presenting to the consumer the sponsored message, followed by providing the offered incentive to the consumer.

Rather, Kaplan simply discloses allowing a consumer to preview music prior to its purchase. Specifically, Kaplan describes a Kiosk in a retail CD store, connected to the Internet, where songs can be previewed prior to buying a physical CD from that retail outlet. The kiosk station acts as a computer age "listening booth." Kaplan does not teach or suggest an exchange of advertisement for goods or services. Specifically, Kaplan does not disclose or suggest offering to a consumer incentive related to the acquisition of a media product if the consumer accepts the precondition of first viewing or interacting with a sponsor message that includes an advertisement, wherein the advertisement is unrelated to the media product for which the incentive is provided.

Col. 7, lines 14-24 of Kaplan, as cited by the Examiner, disclose that consumer may earn bonus points in reward of a consumer's willingness to answer rating questions after previewing selections at a music kiosk station, and that the bonus points may later be used in combination with purchase points to earn discounted or free music. However, there is no teaching or

suggestion in Col. 7, lines 14-24 of Kaplan of offering purchase incentives of a media product to a consumer upon the consumer accepting an offer of viewing or interacting with a sponsor message that includes an advertisement unrelated to the media product to be purchased by the consumer. Applicant respectfully submits that the Examiner's interpretation of "sponsor message" to be inclusive of preview of music selection is unreasonably broad; nevertheless, Applicant has amended Claim 1 to further clarify the meaning of the term.

Davis does not make up for the deficiencies of Kaplan. Further, Applicant traverses the Examiner's combination of Kaplan and Davis. Specifically, the Examiner does not point to any reason by which one of ordinary skill in the art would be motivated to combine Kapan and Davis. Indeed, Applicant submits that a combination of Kaplan and Davis would result in an inoperative system. Specifically, to the extent the Examiner interprets a "sponsor message" to mean music preview, a music preview as disclosed in Kaplan would not be "suspended if the account is used up," as suggested by the Examiner (*see* Detailed Action p. 7).

Applicant respectfully submits that Kaplan, which is directed to preview of music at a kiosk, is not combinable with Davis, which is directed to Internet advertising using key words. The two references are directed to completely different areas of art and a combination of these two references would not have been obvious to one of ordinary skill in the art, and even if combined, the two references do not disclose the present invention as claimed in Claim 1.

Accordingly, Applicant submits that Claims 1, 3, 5, 6, 10, 11, 17, 18, and 24-26 are not obvious in view of Kaplan and Davis, either alone or combined.

The Examiner rejected Claims 4 and 9 under 35 U.S.C. 103(a) as being unpatentable over Kaplan in view of Official Notice. This rejection is respectfully traversed with respect to the amended claims.

As discussed above, Kaplan does not contain any disclosure or suggestion of the present invention as recited in Claim 1. Claims 4 and 9 are dependent from Claim 1, and are respectfully submitted as patentable for the same reasons. The Examiner's Official Notice is further traversed in that Applicant respectfully submits that, at the time of the present application (August of 2000), it was not well known to provide free-shipping or in-store coupons in exchange for a consumer accepting an offer to view or interact with a sponsor message that includes an advertisement. Accordingly, Applicant respectfully submits that Claims 4 and 9 are not obvious in view of Kaplan and the Examiner's Official Notice.

In view of the above, Applicant respectfully submits that each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no.513612000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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